IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

Bail Appl..No. 6148 of 2007()

CRIME NO.624 OF 2007 OF KASARAGOD POLICE STATION

: PETITIONERS/ACCUSED

---

1. REJI JOSEPH, S/O. JOSE, AGED 35,
CHERUKARALKKUNNEL VEEDU, THIMIRI P.O., KANNUR.

2. VINOD KUMAR N.B., S/O. RAMAN K.,
AGED 37, KRIPA NIVAS, NALAMVATHUKKAL,
BAVA P.O., UDUMA (VIA), KASARAGOD DISTRICT.

BY ADV. SRI.R.MURALEEKRISHNAN

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6148 of 2007

Dated this the 10th day of October, 2007

ORDER

Application for anticipatory bail. petitioners are accused 1 and 2 in a crime registered at the Kasaragod Police Station as Crime No.624 of 2007. The crux of the allegations against the petitioners is that both of them who are State Government employees appeared for a departmental test. It is alleged that in pursuance of prior agreement, they wrote the examinee number wrongly to make it appear that the answer paper written by one was that of the other. This, the prosecution alleges, was resorted to ensure that one of them passes in the examination. The offence alleged is under Sections 419 and 120 B I.P.C. Investigation is in progress. The petitioners apprehend imminent arrest. The examination took place on 13.07.06.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Much is attempted to be made of an inadvertent error in the writing of the register number of the candidates, it is alleged.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the offence alleged is serious and is bound to be taken serious note of. Grant of anticipatory

bail is likely to send out a negative message about the gravity of the crime, it is pointed out.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that this is a fit case where the petitioner must appear before the Investigating Officer or the learned Magistrate and then seek regular bail in the ordinary course. I find no features in this case which can justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. Of course, when the application for regular bail is considered, totally different considerations would weigh with the court.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioners surrender before the Investigating Officer or the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-